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July 23, 2000

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US Department of Transportation  
Dockets 2000-7479-17  
400 Seventh St., SW Room Plaza 401  
Washington, DC 20590

Dear Sir or Madam:

These comments will focus on proposed regulations concerning public charter operations.

In the aftermath of several commuter air crashes and ValuJet, Congress, in 1996, passed legislation to limit scheduled passenger service operations at uncertificated airports, such as ours – Centennial Airport – in Arapahoe County Colorado, to aircraft with 9 passenger seats or less. (A certificated airport is one that can respond to a crash scene within 3 minutes.) This change was intended to ensure that passenger flights were limited to airports equipped to handle passenger air crashes. Within 60 days after the legislation, the FAA was to start rulemaking regarding this legislation; however, that did not happen.

Before this bill was passed, the FAA had a dual mandate of promoting civil aviation and ensuring safety. The FAA was then charged, in this bill, with focusing on safety only. The reality is that the FAA still focuses on promoting civil aviation, and the best example is the delay in revising the scheduled passenger service regulations as they apply to uncertificated airports.

Congress found it necessary in April of this year to reemphasize its position of passenger safety through additional legislation. Specifically, Congress closed a loophole that the FAA used to undermine the spirit of the original legislation. This additional legislation, passed on April 5, 2000, extended the 9 passenger seat limit to public charter companies, which would operate under a regular schedule. Section 723 of Public Law 106-181 amends 49 USC & 41104 as follows:

(b) Scheduled Operations

- (1) In General – An air carrier, including an indirect air carrier, which operates aircraft designed for more than 9 passenger seats, may not provide regularly scheduled charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights to or from an airport that is not located in Alaska and that does not have an operating certificate issued under Part 139 of Title 14, Code of Federal Regulations (or any subsequent similar regulation).

- (2) Definition – In this paragraph, the term “regularly scheduled charter air transportation” does not include operations for which the departure time, departure location and arrival location are specifically negotiated with the customer or the customer’s representative.

This bill prohibits air charters that have a regular schedule and more than 9 passengers from operating at uncertificated airports. The FAA has not embraced the spirit of this legislation. The draft rules published by the FAA to implement these changes completely exclude “small” scheduled air charter operations from the requirement that they operate only at certificated airports. The term “small” aircraft includes most commuter aircraft between 10-30 passengers.

The federal law applies to all charter operations, both large and small. The draft rules published by the FAA simply do not do the job. The revised rules must be changed to acknowledge that all public charter operations using aircraft with more than 9 passenger seats that operate under a schedule cannot operate at an uncertificated airport. The FAA should not ignore Congress’ direction, and should not compromise public safety. I ask that the rules be changed to conform to the law.

Please include these comments as part of the Notice of Proposed Rulemaking for the above docket.

Thank you for the opportunity to make these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Holden", with a long horizontal flourish extending to the right.

Mark Holden